

PUBLIC MEETING MINUTES

April 8, 2010

PUBLIC EMPLOYMENT RELATIONS BOARD
1031 18th Street
Sacramento, CA 95811

Chair Dowdin Calvillo called the meeting to order at 10:00 a.m.

Members Present

Alice Dowdin Calvillo, Chair
Sally M. McKeag, Member
Robin W. Wesley, Member

Staff Present

Tami Bogert, General Counsel
Les Chisholm, Division Chief, Office of General Counsel (Excused)
Bernard McMonigle, Chief Administrative Law Judge
Eileen Potter, Chief Administrative Officer

Call to Order

After establishing that a quorum had been reached, Chair Dowdin Calvillo called the Public Employment Relations Board (PERB or Board) to order for a return to the open session of the February 11, 2010 Board meeting. She reported that the Board met in continuous closed session to deliberate on pending cases on the Board's docket, pending requests for injunctive relief, and pending litigation, as appropriate.

Chair Dowdin Calvillo read into the record the decisions that issued since the open session in February. Those were PERB Decision Nos. 2098-M, 2099-I, 2100-M, 2101-H, 2102-S, 2103-M and Administrative Appeal Order No. Ad-383. In request for injunctive relief (I.R.) No. 580 (*Riverside Sheriffs' Association v. County of Riverside*), the request was denied; and in I.R. No. 581 (*AFSCME Local 512 v. County of Contra Costa (Department of Employment & Human Services)*), the request was denied. A document containing a listing of the aforementioned decisions was made available at the meeting.

Without objection, Chair Dowdin Calvillo adjourned the February 11, 2010 public meeting. She then opened and called to order the April 8, 2010 public meeting. Without objection, Chair Dowdin Calvillo substituted the previous roll call for the purposes of declaring a quorum. Hearing no objection, the order was made. Member Wesley led in the Pledge of

Allegiance to the Flag. Before moving forward with the public meeting, Chair Dowdin Calvillo announced that former State Senator Al Rodda passed away on April 3, 2010. He was 97. She stated that he accomplished much during his almost 20 years in the Senate, including playing pivotal roles in the creation of Cal Expo and the Sacramento Regional Transit District. The Public Employment Relations Board recognizes the late Senator Al Rodda for authoring the Educational Employment Relations Act (EERA), landmark legislation that granted collective bargaining rights to California teachers. Without objection, Chair Dowdin Calvillo stated she would like to adjourn today's meeting in memory of Senator Al Rodda. Hearing no objection, the order was made.

Without objection, Chair Dowdin Calvillo announced that she would like to move the Public Comment period to the end of the meeting. Hearing no objection, the order was made.

Minutes

Motion: Motion by Member McKeag and seconded by Member Wesley that the Board adopt the minutes for the February 11, 2010 public meeting.

Ayes: McKeag, Wesley, and Dowdin Calvillo.

Motion Adopted – 3 to 0.

Staff Reports

The following staff reports were received with the caveat that any matter requiring action by the Board and not included as an item in today's agenda would be scheduled for consideration at a subsequent meeting.

a. Administrative Report

Administrative Officer Eileen Potter reported that PERB's budget hearings have not yet been scheduled with the Senate or the Assembly. Ms. Potter indicated that she will keep the Board apprised of any future schedule updates.

b. Legal Report

General Counsel Tami Bogert reported that the monthly activity and litigation reports had been distributed to the Board for their review. From those reports Ms. Bogert recapped in particular since the Board's last public meeting in February, the following information. In regards to monthly activities, Ms. Bogert reported during the months of February and March, 203 new cases were filed with the General Counsel's office; 195 case investigations were completed; and a total of 40 informal settlement conferences were conducted by staff. She further reported that in the same two-month period, as Chair Dowdin Calvillo noted, two requests for injunctive relief were filed and both were denied by the Board.

In terms of litigation, Ms. Bogert first reported on the case California Nurses Association v. PERB, which was filed recently in the First District Court of Appeal and seeks to overturn PERB Decision No. 2094-H. PERB is currently compiling the administrative record for

filing with the appellate court later this month. Secondly, Ms. Bogert reported that the Third District Court of Appeal summarily denied last month the writ petitions filed by the County of Sacramento against PERB. These three cases were brought by the County challenging three Board decisions finding unlawful the County's discontinuation of a retirement benefit for certain County employees. The appellate court's denial became final upon issuance in each case. Lastly, Ms. Bogert reported on a litigation matter of interest to PERB. She reported the California Supreme Court has scheduled oral argument for May 5 in the lead essential-employee-strike litigation case. (*City of San Jose v. Operating Engineers Local Union No. 3*, California Supreme Court Case No. S162647.) Ms. Bogert will keep the Board apprised of future developments.

Chief Administrative Law Judge Bernie McMonigle reported on the activities of the Division of Administrative Law and stated a report had been distributed to the Board for their review. Mr. McMonigle summarized the activities of his Division and stated that the caseload continues to grow to the point where his Division has 63 hearings assigned to six Administrative Law Judges. In March, there were five decisions that issued and Mr. McMonigle expects more decisions to issue during the month of April. He also reported that hearings are still being scheduled for the month of July and August.

c. Legislative Report

Les Chisholm, Division Chief, Office of the General Counsel, was out today on an excused absence. His Legislative Report was distributed to the Board via email and was received by the full Board.

Motion: Motion by Member Wesley and seconded by Member McKeag that the Administrative, Legal (including General Counsel and Chief Administrative Law Judge), and Legislative Reports be accepted and filed.

Ayes: McKeag, Wesley and Dowdin Calvillo.

Motion Adopted – 3 to 0.

Old Business

None.

New Business

None.

Public Comment

Greg Eddy, representing California Federation of Teachers was saddened to hear about the passing of former State Senator Al Rodda. Mr. Eddy acknowledged his contribution in 1975 to the creation of the collective bargaining law for public education in California. He also mentioned that the late Senator Rodda was an AFT member long before collective bargaining or exclusive bargaining existed. Mr. Eddy stated that the late Senator Rodda was a teacher at the Los Rios Community College District, a member of their union and a very close friend to their former president, Mary Bergen, who in the 1970s was their lobbyist at that time. Mr. Eddy extended his heartfelt sympathy to the Rodda family and acknowledged the enormous benefit and contributions the late Senator made to California and also to the teachers of California.

Kevin Colburn, representing California Teachers Association, also expressed his sympathy on the passing of former State Senator Al Rodda. He stated that the late Senator Rodda's contributions in creating the collective bargaining law not only helped the teachers but the students as well. He too sent his heartfelt condolences to the Rodda family.

Member McKeag stated she never had the pleasure of meeting former State Senator Al Rodda but her heartfelt condolences and sympathy go out to his family as well.

Member Wesley echoed Member McKeag's sentiments and stated that the late Senator was well-respected by both sides and was someone who could really get things done for the State of California.

General Discussion

Chair Dowdin Calvillo announced that there being no further business, it would be appropriate to recess the meeting to continuous closed session and that the Board would meet in continuous closed session each business day beginning immediately upon the recess of the open portion of this meeting through June 10, 2010 when the Board will reconvene in Room 103, Headquarters Office of the Public Employment Relations Board. The purpose of these closed sessions will be to deliberate on cases listed on the Board's Docket (Gov. Code sec. 11126(c)(3)), personnel (Gov. Code sec. 11126(a)), pending litigation (Gov. Code sec. 11126(e)(1)), and any pending requests for injunctive relief (Gov. Code sec. 11126(e)(2)(c)).

Motion: Motion by Member Wesley and seconded by Member McKeag to recess the meeting to continuous closed session.

Ayes: McKeag, Wesley and Dowdin Calvillo.

Motion Adopted – 3 to 0.

Respectfully submitted,

Chris Wong, Administrative Assistant

APPROVED AT THE PUBLIC MEETING OF:

Alice Dowdin Calvillo, Chair